

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

THE UNITED STATES OF AMERICA
FOR THE USE AND BENEFIT OF
READY MIX CONCRETE, INC.

Plaintiff

vs

CIVIL 98-2235CCC

UNITED STATES FIDELITY & GUARANTY
COMPANY, THE ST. PAUL COMPANIES,
INC., RELIABLE MECHANICAL, INC.,
GALEAR, INC. and
JOHN DOES 1 THROUGH 25, INCLUSIVE

Defendants

RELIABLE MECHANICAL, INC.

Third-Party Plaintiff

vs

ARMANDO A. DIAZ-CRUZ

Third-Party Defendant

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U.S. DISTRICT COURT
SAN JUAN, P.R.

ORDER

This action is now before us on Reliable Mechanical Inc.'s (RMI) Motion to Compel Arbitration (**docket entry 60**). The motion stands unopposed.

RMI filed a motion for summary judgment against guarantor Díaz-Cruz and Galear, Inc.,¹ based on the court's decision finding Gelear, Inc., among others, liable for the amounts claimed by plaintiff Ready Mix Concrete, Inc. Díaz-Cruz opposed the motion stating, among other things, that under its contract, the dispute had to be submitted to arbitration. On the basis of the arbitration clause, the court dismissed the suit, sending the parties to arbitration.

¹Galear, Inc. has since filed for bankruptcy.

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RMI is now before us stating that Díaz-Cruz, who invoked the right to arbitrate, is refusing to submit to arbitration.

This court entered judgment because Díaz-Cruz invoked the arbitration clause, which covered the remaining issues. We cannot condone this action as a tactic for stalling a final decree. See Menorah Insurance Company Ltd. v. INX Reinsurance Corporation, 72 F.3d 218 (1st Cir. 1995).

Accordingly, Díaz-Cruz is GRANTED a final term of twenty (20) days after notice of this order to submit to arbitration. He is admonished that failure to comply with this order will be a waiver of arbitration, in which case, we will vacate the dismissal and enter judgment on the Motion for Summary Judgment.

SO ORDERED.

At San Juan, Puerto Rico, on January 16, 2002.


CARMEN CONSUELO CEREZO
United States District Judge